



MARIPOSA COUNTY

Planning · 209-966-5151



ORDINANCE 2016-1120

MEETING: November 15, 2016

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: 2Nd Reading - CC Amendment No. 2016-112: Reasonable Accommodation Ordinance

Waive the Second Reading and Adopt an Ordinance Amending County Code Title 17, Zoning Pursuant to County Code Amendment No. 2016-112.

The regulations implement Program 8.5 of Section 8.6.04.H(2) in the Mariposa County 2009-2014 Housing Element - Housing for Persons with Disabilities, which calls for the adoption of a written reasonable accommodation ordinance to provide minor exceptions to zoning and land use for housing for persons with disabilities that will allow for expedited processing and approval of such housing. The program is required in accordance with Federal and State Fair Housing laws.

The recommended action is also based on the Board of Supervisors' actions adopting a resolution approving County Code Amendment No. 2016-112 and waiving the first reading and introducing the ordinance; both of which being accomplished at the conclusion of a public hearing on October 25, 2016.

The action will amend Mariposa County Code, Title 17, Zoning by adding a new Chapter 17.146 to Code.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted Resolution No. 2016-564 on October 25, 2016, approving County Code Amendment No. 2016-112. On that same date, the Board also waived the first reading and introduced an ordinance amending County Code Title 17, Zoning, pursuant to County Code Amendment No. 2016-112.

The Board adopted Resolution No. 2016-318 on June 21, 2016, initiating the amendments.

The Board adopted Resolution No. 2009-595 on December 8, 2009, approving the Mariposa County General Plan 2009-2014 Housing Element.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives: None

ATTACHMENTS:

161115 Final Ordinance - for 11-15-16 agenda (DOC)

161115 Summary Ordinance for Publication (post adoption) - for 11-15-16 agenda (DOCX)

CAO RECOMMENDATION

Requested Action Recommended


Mary Hodson, CAO 10/19/2016

RESULT: ADOPTED [UNANIMOUS]

MOVER: Kevin Cann, District IV Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Smallcombe, Jones, Long, Cann, Carrier

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS

MARIPOSA COUNTY ORDINANCE NO. 1120

AN ORDINANCE AMENDING TITLE 17, ADDING A NEW CHAPTER 17.146 TO
THE MARIPOSA COUNTY CODE

WHEREAS, the Mariposa County Board of Supervisors adopted Resolution No 2016-318 on June 21, 2016 initiating County Code Amendment No. 2016-112, an amendment to the Mariposa County Code, Title 17; and

WHEREAS, County Code Amendment No. 2016-112 adds a new Chapter 17.146 to Title 17, Mariposa County Code, to establish reasonable accommodation provisions for persons with disabilities, to comply with the intent and purpose of fair housing laws; and

WHEREAS, the Planning Commission held a duly noticed public hearing on County Code Amendment 2016-112 on the 9th of September 2016 in accordance with State law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on County Code Amendment 2016-112 on the 25th day of October 2016 in accordance with State law and County Code; and

WHEREAS, it has been found that the project is exempt from the California Environmental Quality Act (CEQA) and a Notice of Exemption has been filed for the project.

NOW THEREFORE, the Board of Supervisors of the County of Mariposa does hereby amend Title 17 of the Mariposa County Code and ordains as follows:

Section I

Add new Chapter 17.146 as follows:

Chapter 17.146

REASONABLE ACCOMMODATION

Sections:

- 17.146.010 Purpose and intent.
- 17.146.020 Applicability.
- 17.146.030 Application requirements.
- 17.146.040 Review authority.
- 17.146.050 Review procedures.
- 17.146.060 Required findings and decision.
- 17.146.070 Appeal of determination.

17.146.080 General provisions

17.146.010 Purpose and intent.

It is the policy of the County of Mariposa to provide individuals with disabilities reasonable accommodation in its application of zoning standards and other land use regulations, policies and procedures to ensure equal access to housing and facilitate the development of housing for individuals with disabilities pursuant to the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts). This chapter provides a procedure for making requests for reasonable accommodations in zoning standards and other land use regulations, policies and procedures to comply fully with the intent and purpose of fair housing laws.

17.146.020 Applicability.

Persons defined as disabled under the Acts may request reasonable accommodations when the strict application of the provisions within the County's General Plan or this Title act as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or mental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. A request for reasonable accommodation may be made by any person with a disability, his or her representative (e.g. family member, care provider, etc.), or a provider of housing for persons with disabilities.

A request for reasonable accommodation may include a minor modification or exception to the standards contained in the County's General Plan and zoning ordinance relating to the siting, development and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.

17.146.030 Application Requirements.

A request for reasonable accommodation must be filed on an application form provided by the planning department, shall be signed by the applicant and shall include the following information:

- A. The applicant's name, address and phone number;
- B. The name and address of the property owner if different than the applicant;
 - 1. The property owner, if different than the applicant, shall be required to sign an affidavit stating they do not object to the application for reasonable accommodation.
- C. Verification that the property is the primary residence of the person(s) for whom the reasonable accommodation is requested.

D. The address for the property for which the reasonable accommodation request is being made;

E. Current use of the property;

F. A description of how the property will be used by the person(s) requesting reasonable accommodation;

G. The specific reason the requested accommodation is necessary to make a particular dwelling available to the disabled person(s) with a citation of the specific provision within the General Plan or this Title from which accommodation relief is being sought;

H. The basis for the claim that the Acts apply to the person(s) requesting the reasonable accommodation and evidence supporting the claim, which may include a letter from a medical doctor or other licensed health care professional, a disabled person license or other appropriate evidence which establishes that the person(s) needing the reasonable accommodation is disabled pursuant to the Acts;

I. The planning department shall assist the applicant in completing the form, as necessary, or, shall elicit oral information from the applicant necessary for the Department to complete the form itself. In the event the Department completes the form by eliciting oral information from the applicant, the Department shall read the completed form to the applicant to ensure its accuracy and shall provide a copy of the completed form to the applicant.

17.146.040 Review authority.

The planning director shall review and make a written determination regarding a request for a reasonable accommodation.

17.146.050 Review Procedures.

A. Planning director review. The planning director shall make a written determination with findings within thirty (30) calendar days following the submittal of a complete application and either approve, approve with modifications, or deny a request for a reasonable accommodation in compliance with Section 17.146.060 below.

B. Conditions of approval. In approving a request for reasonable accommodation, the director may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings shown in Section 17.146.060 below.

C. The planning director may consult with other Mariposa County agencies if the reasonable accommodation request affects the jurisdiction or the review, permitting and/or enforcement processes of those agencies. The planning director may review General Plan and zoning standards when considering a request for reasonable accommodation, including, but not limited to, land use

classification, zoning district, design, setback, and lot coverage standards.

D. Stays. If necessary to reach a determination on the request for reasonable determination, the director may request further information from the applicant consistent with the Acts, specifying in detail the information that is required. In the event a request for additional information is made, the thirty (30) calendar day period to issue a decision is stayed until the applicant responds to the request.

17.146.060 Required findings and decision.

The written decision to approve, approve with modifications, or deny a request for reasonable accommodation shall be consistent with the Acts and based on consideration of the following findings and any other relevant information upon which the decision is based as determined by the planning director on a case-by-case basis. The planning director shall not approve a request unless it is found that:

A. The housing, which is the subject of the request, will be used by an individual disabled under the Acts.

B. The requested reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts.

C. The requested reasonable accommodation would not impose an undue financial or administrative burden on the County.

D. The requested reasonable accommodation would not require a major or fundamental alteration to the County's General Plan land use policies and/or zoning ordinance standards.

E. The requested reasonable accommodation will not be injurious to property or improvements in the surrounding area and will not adversely affect the health and safety of persons residing or working in the vicinity, or be detrimental to the public health, safety and welfare.

17.146.070 Appeal of determination.

A. The written determination by the planning director to approve, approve with modifications or deny a request for reasonable accommodation may be appealed in accordance with Chapter 17.136 of this Title.

B. All appeals shall be filed with the Mariposa County Planning Commission Secretary or the Clerk of the Mariposa County Board of Supervisors on a Notice of Appeal Form obtained at the planning department or on-line, and shall contain all required information including a statement of the grounds for the appeal.

C. An individual needing assistance in filing an appeal on an adverse decision shall be provided assistance by the planning department to ensure that the appeals process is accessible.

17.146.080 General provisions.

A. Rescission. An approval or approval with modifications made in compliance with this chapter may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances (e.g., the individual defined as disabled under the Acts vacates the subject site, etc.).

B. Severability. The sections of this chapter are separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, or portion of these sections, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.

C. Fees. An applicant for a request for reasonable accommodation shall not be assessed a fee to process the application.

D. Any information identified by the applicant as confidential that is submitted to the County as part of an application or appeal shall be retained by the County in a manner that respects the privacy rights of the applicant/appellant and shall not be made available for public inspection.

Section II: If any provision of this ordinance is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court or competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Section III: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this 15th day of November, 2016, by the following vote:


AYES: SMALLCOMBE, JONES, LONG, CANN, CARRIER
NOES: NONE
ABSTAINED: NONE
EXCUSED: NONE



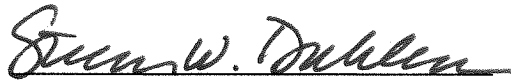
John Carrier, Chair
Mariposa County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:



René LaRoche
Clerk of the Board of Supervisors



Steven W. Dahlem
County Counsel